

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2553

**FISCAL
NOTE**

BY DELEGATES SUMMERS AND EVANS, A.

[Introduced February 20, 2017; Referred
to the Committee on Agriculture and Natural
Resources then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §11-15-9o, relating to an exemption from the consumers sales and service tax
 3 and use tax for sales of services and tangible personal property related to the activities of
 4 raising and training livestock, including horses; setting forth legislative intent; providing a
 5 method to resolve conflicts in law; providing an effective date; providing definitions; and
 6 describing those sales of services and tangible personal property that are exempt and
 7 providing method of claiming exemption.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §11-15-9o, to read as follows:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

**§11-15-9o. Exemption for Purchases of Tangible Personal Property and Services for Use
 in Equestrian and Livestock Related Activities Act.**

1 (a) Legislative intent, interpretation and effective date. —

2 (1) Legislative intent. -- The Legislature hereby finds that it is in the public's best interests
 3 to promote livestock related activities. There is ample land in this state and long-held cultural and
 4 historical traditions associated with the raising and training of livestock. Further, livestock-related
 5 activities are compatible with the preservation of green space in this state while at the same time
 6 are a productive use of the land.

7 (2) Interpretation. -- To the degree that the provisions of this section conflict with any other
 8 section of this code, including subdivision thirty-one, subsection-a, section nine, article fifteen, of
 9 this chapter, the provisions of this section shall control.

10 (3) Effective date. — The provisions of this article shall take effect for all applicable sales
 11 of services and tangible personal property made after July 1, 2017. For the purposes of this
 12 section, the sale occurs when the service is rendered or the transfer of tangible personal property
 13 is made.

14 (b) Definitions. — For the purposes of this section, the following terms shall be defined as
15 follows. If a term is not defined herein, it shall be ascribed its commonly-used meaning.

16 (1) Livestock. — Tangible personal property consisting of domesticated beasts of burden
17 including horses, ponies, cattle, sheep, lambs, goats, donkeys and mules, which labor for the
18 benefit of humans.

19 (2) Equestrian activities that pertain to the riding of horses or ponies.

20 (3) In-State. — Located within the geographical boundaries of the State of West Virginia.

21 (4) Horse drivers. — Individuals that command horses or ponies using reins or a harness
22 from a sulky, buggy, wagon, sleigh, or similar vehicle.

23 (5) Tax. — The Consumers Sales and Service Tax set forth by article fifteen, chapter
24 eleven of the West Virginia Code, and the Use Tax set forth by article fifteen-b, chapter eleven of
25 the West Virginia Code.

26 (6) Exempt. - - Not subject to the Consumers Sales and Service Tax or Use Tax.

27 (c) Exempt sales of services and tangible personal property and method of claiming
28 exemption. — The following sales of services and tangible personal property shall be considered
29 a per se exemption for the purposes of chapters fifteen and fifteen-a of the West Virginia Code,
30 meaning that no exemption certificate or direct pay permit need be presented.

31 (1) Hauling services are exempt if the service being performed consists solely of
32 transporting livestock with no sale involved, or if the service consists of delivering an animal that
33 fits the definition of livestock after a sale, and the vendor provides the delivery service.

34 (2) Prize money is exempt if it is awarded as the result of winning a livestock show,
35 including equestrian or other livestock performance that focuses on performance rather than
36 breed characteristics.

37 (3) The exemption for sales of livestock in their original state that is set forth in subdivision
38 thirty-one, subsection-a, section nine, article fifteen, of this chapter of the West Virginia Code shall
39 remain in effect. The record-keeping requirements in subdivision thirty-one, subsection-a, section

40 nine, article fifteen, of this chapter, shall no longer apply to these sales.

41 (4) The sale of livestock is exempt if the livestock does not otherwise qualify for the
42 exemption that is set forth in subdivision thirty-one, subsection-a, section nine, article fifteen, of
43 this chapter.

44 (5) The fees received in exchange for training livestock are exempt from the tax.

45 (6) The fees received in exchange for training horse riders and drivers as well as handlers
46 of livestock are exempt from the tax.

47 (7) Boarding fees and associated expenses are exempt from the tax if the animal being
48 boarded meets the definition of livestock.

49 (8) Commission fees received for brokering the sale of livestock that is sold from in-state
50 or delivered in-state are exempt from the tax. Otherwise, the sourcing rules contained in section
51 fifteen, article fifteen-b, of this chapter, shall apply.

52 (9) Fees paid for judging a livestock show, including a show that focuses on equestrian or
53 other livestock performance rather than breed characteristics, are exempt from the tax.

NOTE: The purpose of this bill is to specify an exemption from the consumers sales and service tax and use tax for sales of services and tangible personal property rendered for use in connection with raising and training livestock; set forth legislative intent; provide a method to resolve conflicts in law; provide an effective date; provide definitions; and describe those sales of services and tangible personal property that are exempt and provide method of claiming exemption.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.